

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1049**

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**Introduced by Assembly Member Torrico**

February 27, 2009

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~~An act to amend Section 362.04 of the Welfare and Institutions Code, relating to foster parents. An act to add Section 1255.9 to the Health and Safety Code, and to add and repeal Article 18 (commencing with Section 18887) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1049, as amended, Torrico. ~~Foster parents: babysitters. Personal income taxes: voluntary contributions: Safely Surrendered Baby Fund.~~

*Existing law relating to the administration of personal income taxes authorizes individual taxpayers to contribute amounts in excess of their tax liability for the support of specified funds or accounts.*

*This bill would allow individual taxpayers to designate on their tax returns, that a specified amount in excess of their tax liability be transferred to the Safely Surrendered Baby Fund, which would be created by this bill.*

*This bill would provide that all moneys contributed to the fund, upon appropriation by the Legislature, be allocated to the Franchise Tax Board and the Controller for reimbursement of costs, as provided, and to the State Department of Social Services for various programs relating to the Safely Surrendered Baby Law, including the administrative costs incurred by the department in the preparation of a report regarding the Safely Surrendered Baby Law.*

*This bill would provide that these voluntary contribution provisions are repealed on either January 1 of the 5th taxable year following the taxable year the fund first appears on the personal income tax return or on January 1 of an earlier calendar year, if the Franchise Tax Board estimates that the annual contribution amount will be less than \$250,000, or an adjusted amount, as specified, for subsequent taxable years.*

~~Existing law requires a foster parent to use a reasonable and prudent parent standard, as described, in selecting a babysitter to provide occasional short-term babysitting for a foster child, as specified.~~

~~This bill would make technical, nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1255.9 is added to the Health and Safety  
2     Code, to read:

3     1255.9. On and after \_\_\_\_\_, the State Department of Social  
4     Services shall prepare and submit an annual report to the  
5     Legislature regarding the impact of the Safely Surrendered Baby  
6     Law. The report shall include, but is not limited to, the following:

7     (a) The number of infants both safely surrendered and  
8     abandoned and the health condition of the infants.

9     (b) A compilation of information disclosed on the voluntary  
10    questionnaire provided to those persons who safely surrender an  
11    infant.

12    SEC. 2. Article 18 (commencing with Section 18887) is added  
13    to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation  
14    Code, to read:

15  
16                     Article 18. Safely Surrendered Baby Fund  
17

18     18887. (a) Any individual may designate on the tax return that  
19     a contribution in excess of the tax liability, if any, be made to the  
20     Safely Surrendered Baby Fund, which is established by Section  
21     18888.

22     (b) The contributions shall be in full dollar amounts and may  
23     be made individually by each signatory on a joint return.

1     (c) A designation under subdivision (a) shall be made for any  
2     taxable year on the initial return for that taxable year, and once  
3     made shall be irrevocable. In the event that payment and credits  
4     reported on the return, together with any other credits associated  
5     with the individual's account, do not exceed the individual's  
6     liability, the return shall be treated as though no designation has  
7     been made.

8     (d) If an individual designates a contribution to more than one  
9     account or fund listed on the tax return, and the amount available  
10    is insufficient to satisfy the total amount designated, the  
11    contribution shall be allocated among the designees on a pro rata  
12    basis.

13    (e) The Franchise Tax Board shall revise the form of the return  
14    to include a space labeled "Safely Surrendered Baby Fund" to  
15    allow for the designation permitted under subdivision (a). The  
16    form shall also include in the instructions information that the  
17    contribution may be in the amount of one dollar (\$1) or more and  
18    that the contribution shall be used to fund outreach about, to  
19    expand awareness of, and to ensure the enforcement of, the Safely  
20    Surrendered Baby Law.

21    (f) Notwithstanding any other provision, a voluntary contribution  
22    designation for the Safely Surrendered Baby Fund shall not be  
23    added on the tax return until another voluntary contribution  
24    designation is removed.

25    (g) A deduction shall be allowed under Article 6 (commencing  
26    with Section 17201) of Chapter 3 of Part 10 for any contribution  
27    made pursuant to subdivision (a).

28    18888. There is hereby established in the State Treasury the  
29    Safely Surrendered Baby Fund to receive contributions made  
30    pursuant to Section 18887. The Franchise Tax Board shall notify  
31    the Controller of both the amount of money paid by taxpayers in  
32    excess of their tax liability and the amount of refund money that  
33    taxpayers have designated pursuant to Section 18887 to be  
34    transferred to the Safely Surrendered Baby Fund. The Controller  
35    shall transfer from the Personal Income Tax Fund to the Safely  
36    Surrendered Baby Fund an amount not in excess of the sum of the  
37    amounts designated by individuals pursuant to Section 18887 for  
38    payment into that fund.

1     18889. *All money transferred to the Safely Surrendered Baby*  
2 *Fund, upon appropriation by the Legislature, shall be allocated*  
3 *as follows:*

4     (a) *To the Franchise Tax Board and the Controller only for*  
5 *reimbursement of all costs incurred by the Franchise Tax Board*  
6 *and the Controller in connection with their duties under this article.*

7     (b) *To the State Department of Social Services for the following:*

8     (1) *The distribution of grants for programs to increase public*  
9 *awareness and outreach regarding the Safely Surrendered Baby*  
10 *Law, including, but not limited to, public service announcements*  
11 *in English and Spanish, safe surrender hotlines, a State Department*  
12 *of Social Service Internet Web site with a comprehensive list of*  
13 *safe-surrender sites, education, and training for communities and*  
14 *schools.*

15     (2) *Administrative costs incurred by the Office of Child Abuse*  
16 *Prevention in the enforcement of the Safely Surrendered Baby*  
17 *Law, including, but not limited to, any costs incurred in clarifying*  
18 *the circumstances under which safe-surrender sites and counties*  
19 *must protect the identifying information of the individual who*  
20 *surrenders an infant.*

21     (3) *Administrative costs of the State Department of Social*  
22 *Services incurred pursuant to Section 1255.9 of the Health and*  
23 *Safety Code.*

24     18890. (a) *Except as otherwise provided in subdivision (b),*  
25 *this article shall remain in effect only until January 1 of the fifth*  
26 *taxable year following the first appearance of the Safely*  
27 *Surrendered Baby Fund on the personal income tax return, and*  
28 *as of that date is repealed, unless a later enacted statute, that is*  
29 *enacted before the applicable date, deletes or extends that date.*

30     (b) (1) *By September 1 of the second calendar year and each*  
31 *subsequent calendar year that the Safely Surrendered Baby Fund*  
32 *appears on the tax return, the Franchise Tax Board shall do all*  
33 *of the following:*

34     (A) *Determine the minimum contribution amount required to*  
35 *be received during the next calendar year for the fund to appear*  
36 *on the tax return for the taxable year that includes that next*  
37 *calendar year.*

38     (B) *Provide written notification to the State Department of*  
39 *Social Services of the amount determined in subparagraph (A).*

1     (C) Determine whether the amount of contributions estimated  
2     to be received during the calendar year will equal or exceed the  
3     minimum contribution amount determined by the Franchise Tax  
4     Board for the calendar year pursuant to subparagraph (A). The  
5     Franchise Tax Board shall estimate the amount of contributions  
6     to be received by using the actual amounts received and an  
7     estimate of the contributions that will be received by the end of  
8     that calendar year.

9     (2) If the Franchise Tax Board determines that the amount of  
10    the contributions estimated to be received during a calendar year  
11    will not at least equal the minimum contribution amount for the  
12    calendar year, this article is repealed with respect to taxable years  
13    beginning on or after January 1 of that calendar year.

14    (3) For purposes of this section, the minimum contribution  
15    amount for a calendar year means two hundred fifty thousand  
16    dollars (\$250,000) for the second calendar year after the first  
17    appearance of the Safely Surrendered Baby Fund on the personal  
18    income tax return or the adjusted minimum contribution amount  
19    adjusted pursuant to subdivision (c).

20    (c) For each calendar year, beginning with the third calendar  
21    year after the first appearance of the Safely Surrendered Baby  
22    Fund on the personal income tax return, the Franchise Tax Board  
23    shall adjust, on or before September 1 of that calendar year, the  
24    minimum contribution amount specified in subdivision (b) as  
25    follows:

26    (1) The minimum estimated contribution amount for the calendar  
27    year shall be an amount equal to the product of the minimum  
28    estimated contribution amount for the calendar year multiplied  
29    by the inflation factor adjustment as specified in subparagraph  
30    (A) of paragraph (2) of subdivision (h) of Section 17041, rounded  
31    off to the nearest dollar.

32    (2) The inflation factor adjustment used for the calendar year  
33    shall be based on the figures for the percentage change in the  
34    California Consumer Price Index for all items received on or  
35    before August 1 of the calendar year pursuant to paragraph (1)  
36    of subdivision (h) of Section 17041.

37    (d) Notwithstanding the repeal of this article, any contribution  
38    amounts designated pursuant to this article prior to its repeal shall  
39    continue to be transferred and disbursed in accordance with this  
40    article as in effect immediately prior to that repeal.

1     ~~SECTION 1. Section 362.04 of the Welfare and Institutions~~  
2     ~~Code is amended to read:~~

3     ~~362.04. (a) For purposes of this section:~~

4     ~~(1) “Caregiver” means any licensed or certified foster parent,~~  
5     ~~approved relative caregiver, or approved nonrelative extended~~  
6     ~~family member.~~

7     ~~(2) “Reasonable and prudent parent” or “reasonable and prudent~~  
8     ~~parent standard” means the standard characterized by careful and~~  
9     ~~sensible parental decisions that maintain the child’s health, safety,~~  
10    ~~and best interest.~~

11    ~~(3) “Short-term” means no more than 24 consecutive hours.~~

12    ~~(b) (1) Every caregiver may arrange for occasional short-term~~  
13    ~~babysitting of a foster child for whom the caregiver is licensed,~~  
14    ~~certified, or approved to provide care and allow individuals to~~  
15    ~~supervise the foster child for the purposes set forth in Section~~  
16    ~~362.05, or on occasions, including, but not limited to, when the~~  
17    ~~foster parent has a medical or other health care appointment,~~  
18    ~~grocery or other shopping, personal grooming appointments,~~  
19    ~~special occasions for the foster parents, foster parent training~~  
20    ~~classes, school-related meetings (such as parent-teacher~~  
21    ~~conferences), business meetings, adult social gatherings, or an~~  
22    ~~occasional evening out by the foster parent.~~

23    ~~(2) Caregivers shall use a reasonable and prudent parent standard~~  
24    ~~in determining and selecting appropriate babysitters for occasional~~  
25    ~~short-term use.~~

26    ~~(3) The caregiver shall endeavor to provide the babysitter with~~  
27    ~~the following information before leaving the child for purposes of~~  
28    ~~short-term care:~~

29    ~~(A) Information about the child’s emotional, behavioral, medical~~  
30    ~~or physical conditions, if any, necessary to provide care for the~~  
31    ~~child during the time the foster child is being supervised by the~~  
32    ~~babysitter.~~

33    ~~(B) Any medication that should be administered to the foster~~  
34    ~~child during the time the foster child is being supervised by the~~  
35    ~~babysitter.~~

36    ~~(C) Emergency contact information that is valid during the time~~  
37    ~~the foster child is being supervised by the babysitter.~~

38    ~~(e) Babysitters selected by the caregiver to provide occasional~~  
39    ~~short-term care to a foster child under the provisions of this section~~

1 shall be exempt from any department regulation requiring health  
2 screening or cardiopulmonary resuscitation certification or training.  
3 (d) Each state and local entity shall ensure that private agencies  
4 that provide foster care services to dependent children have policies  
5 consistent with this section. Policies that are not consistent with  
6 this section include those that are incompatible with, contradictory  
7 to, or more restrictive than this section.

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